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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,003	12/11/2001	W. Richard Jones	J0231.70000US00	2100
23628 7590 12/13/2007 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206			EXAMINER BADII, BEHRANG	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/015,003	JONES, W. RICHARD	
	Examiner	Art Unit	
	Behrang Badii	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-20,40 and 42-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,3-20,40 and 42-60 is/are objected to.
- 8) ☒ Claim(s) 1,3-20,40 and 42-60 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 3 and 42-55 objected to because of the following informalities: What claims does claims 3 depend from? What claim do claims 42-55 depend from? In general, the applicant is advised to go over the numbering of the claims and the dependency of all the claims. There are mistakes in the claim tree, i.e. the dependency of the claims. Appropriate correction is required.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 57-60, drawn to a method of creating an investment portfolio, comprising acts of: identifying, according to one or more criteria, a plurality of financial instruments publicly traded on an exchange, each financial instrument being associated with a company having annual earnings; allocating a weight coefficient to each of said identified financial instruments based at least in part on a value of the annual earnings of each associated company relative to values of the annual earnings of others of the companies associated with the plurality of identified financial instruments; wherein allocating weight coefficients includes assigning a weight coefficient to each of the plurality of financial instruments such that for substantially any financial instrument associated with a first company having annual earnings larger than annual earnings of a second company, the financial instrument associated with the first company is assigned a weight coefficient that is greater than or substantially equal to the weight coefficient assigned to the financial instrument

associated with the second company; purchasing an amount of each of the identified financial instruments based at least in part on the weight coefficients; and substantially maintaining said purchased financial instruments for more than two years, classified in class 705, subclass 35.

II. Claims 1, 3-20, 40, 42-56, drawn to a method for creating an investment fund or an investment trust, comprising acts of: allocating a weight coefficient to each of said identified financial instruments based at least in part on value of the market capitalization of each associated company relative to values of the market capitalization of others of the companies associated with the plurality of identified financial instruments, classified in class 705, subclass 36.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as allocating a weight coefficient to each of said identified financial instruments based at least in part on a value of the annual earnings of each associated company relative to values of the annual earnings of others of the companies associated with the plurality of identified financial instruments. Invention II has separate utility such as allocating a weight coefficient to each of said identified financial instruments based at least in part on value of the market capitalization of each associated company relative to values of the market capitalization of others of the companies associated with the plurality of identified financial instruments. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrang Badii whose telephone number is 571-272-6879. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450

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or faxed to (571)273-8300


Hand delivered responses should be brought to

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Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application
or proceeding should be directed to the Technology Center 3600 Customer Service
Office whose telephone number is **(571) 272-3600**.

Behrang Badii
Patent Examiner
Art Unit 3621

BB


ELLA COLBERT
PRIMARY EXAMINER